

REMARKS

Claims 1-9 are pending. Claims 4-9 have been withdrawn. Claim 1-3 are rejected.

Information Disclosure Statement

The information disclosure statement filed May 17, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it relies on the presence of copies of the cited references that are in the file of Application No. 10/376,695, for which domestic priority is not claimed under 35 U.S.C. 120. Reliance on copies of references in other applications requires that the other applications be relied upon for an effective filing date under 35 U.S.C. 120. No copies of the cited references were provided by the applicants in the instant application and the Applicant relies on copies of the cited references in Application Nos. 10/376,695 (not claimed under 35 U.S.C. 120 as discussed above) and 09/767,460 (for which priority is properly claimed under 35 U.S.C. 120). References cited in the Applicants' list of references that were not present in the file of Application No. 09/767,460 were not considered and have been lined though in the signed copy of the list of references attached to this Office Action.

Applicants have attached to this office action copies of the references that are not present in the file.

Priority

Applicants' claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

The instant application claims priority to Application No. 09/490,701, which does not have a common inventor with the instant application as required by 35 U.S.C. 120. Applicants made a mistake typing the application number in the priority claim when the application was filed. The correct application number is 09/490,702, which is now U.S. Patent 6,560,542, filed January 24,

2000. Please notice that patent number and filing dated are accurate in Applicants' priority claim. Applicants respectfully request that the error be corrected and that priority to Application No. 09/490,702 be granted.

Election Restrictions

Claims 1-3 are pending in this application, Claims 4-9 were withdrawn from consideration by the examiner after a telephone conversation with Eric Witt on May 15, 2006 where a provisional election was made without traverse

Applicant is required under 35 U.S.C. §121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Applicants confirm the election of species 1) peptides with a Dopamine D2 target (SEQ ID NOS: 1-12), without traverse. Claims 1-3 read on this species. Applicants, however, reserve the right pursuant to 35 U.S.C. §121 to file one or more divisional applications directed to the non-elected invention during the pendency of the present application. Accordingly, no new matter is added. Entry of this amendment requirement is respectfully requested.

Specification

The Preliminary Amendment to the specification filed August 9, 2005 is improper because the changes were not indicated by striking through deleted text and underlining added text as required by 37 CFR 1.121. A proper Amendment is now submitted with this office action. Entry of this Amendment is respectfully requested.

Double Patenting

Claims 1-3 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claim 16 of copending Application No. 10/376,695.

In the interest of expediting prosecution of the present application, and without conceding the validity of this rejection, should claims 1-3 of the present application be found allowable, Applicants will file a terminal disclaimer disclaiming any term of claims 1-3 issuing from the present

application beyond the term of any patents that issue from Application No. 10/376,695. The present application and Application No. 10/376,695 are co-owned by the same entity. Withdrawal of this rejection is respectfully requested.

CONCLUSION

Applicants submit that this paper fully addresses the Office Action mailed September 15, 2006 and place this Application in condition for allowance. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned attorney at (650) 565-3585. The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. 23-2415 (Docket No. 31010-701.301).

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

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By: 

Eric Witt
Registration No. 44, 408

650 Page Mill Road
Palo Alto, CA 94304-1050
(650) 493-9300
Customer No. 021971